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1904, § 3059, as amended by Acts 1910, c. 107, authorizing the continuance of any term of the circuit court by adjournment, but providing that no term shall be continued beyond the day fixed for the beginning of the next regular term, an order of the circuit court adjourning a term until after the beginning of the next term is a nullity, though made under the erroneous belief that a prior order omitting such next term was in force, while it was superseded by act of 1910, fixing the terms of court.

[Ed. Note.—For other cases, see Courts, Cent. Dig. §§ 231-242; Dec. Dig. § 66.\* 3 Va.-W. Va. Enc. Dig. 705.]

**2. Exceptions, Bill of (§ 41\*)—Time of Signing—Statutes.**—Where the circuit court at the July term rendered final judgment on September 8th, and entered on the same day an order adjourning the term to the date fixed by statute for the next term, the July term must be deemed to have ended on September 8th, and a bill of exceptions not signed until October 17th was not signed within 30 days, as required by Code 1904, § 3285, as amended by Acts 1908, c. 225, and it is no part of the record on appeal.

[Ed. Note.—For other cases, see Exceptions, Bill of, Cent. Dig. §§ 65-71; Dec. Dig. § 41.\* 5 Va.-W. Va. Enc. Dig. 387.]

Error to Circuit Court, Princess Anne County.

Action between the Virginia Beach Development Company and A. E. Murray. There was a judgment for the latter, and the former brings error. Affirmed.

*Theo. A. Williams* and *Geo. A. Frick*, for plaintiff in error.  
*J. Edward Cole* and *L. D. Yarrell*, for defendant in error.

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W. W. V. CO., Inc. *v.* BLACK.

June 13, 1912.

[75 S. E. 82.]

**1. Pleading (§ 193\*)—Misjoinder of Actions—Manner of Raising Question.**—The proper method of raising a question of misjoinder of actions is by a demurrer to the whole declaration containing separate counts.

[Ed. Note.—For other cases, see Pleading, Cent. Dig. §§ 425, 428-435, 437-443; Dec. Dig. § 193.\* 1 Va.-W. Va. Enc. Dig. 141.]

**2. Theaters and Shows (§ 4\*)—Ticket of Admission—Breach of Contract—Remedy.**—An action of tort will not lie against the proprietor of a theater for not performing his contract, evidenced by a ticket of admission, or continuing his license of admission; but a

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\*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep'r Indexes.

patron having a ticket, who is prevented from entering the theater, or who is removed therefrom, can only sue on the contract for the money paid for the ticket and the damages sustained by a breach of the contract.

[Ed. Note.—For other cases, see Theaters and Shows, Cent. Dig. § 4; Dec. Dig. § 4.\*]

**3. Pleading (§ 204\*)—Declaration—Causes of Action—Demurrer.**—Where the declaration contains two counts stating good causes of action in tort and another count intended to be in tort, it is immaterial whether the latter count states a good cause of action as against a demurrer to the whole declaration.

[Ed. Note.—For other cases, see Pleading, Cent. Dig. §§ 486-490; Dec. Dig. § 204.\* 1 Va.-W. Va. Enc. Dig. 141.]

Error to Circuit Court of City of Richmond.

Action by George H. Black against the W. W. V. Company, Incorporated. There was a judgment overruling a demurrer to the declaration, and defendant brings error. Affirmed.

The second count of the declaration states a cause of action for false imprisonment.

The third count states a cause of action for assault and battery.

*Allen G. Collins*, for plaintiff in error.

*John A. Lamb*, for defendant in error.

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BROWN et al. v. SURRY LUMBER CO.

June 13, 1912.

[75 S. E. 84.]

**1. Logs and Logging (§ 3\*)—Sales of Standing Timber—Failure to Remove.**—Where it was claimed that it was intended by the parties to a contract for the sale of standing timber that the purchaser should commence cutting within a reasonable time, and that he had forfeited his rights by delay, a remark by the seller in a casual conversation with the purchaser that he thought it was time the purchaser 'was cutting the timber, if he intended to cut it, was not a sufficient demand that the purchaser proceed to justify the court in declaring a forfeiture, especially where for seven years thereafter the seller made no further mention of the matter.

[Ed. Note.—For other cases, see Logs and Logging, Cent. Dig. §§ 6-12; Dec. Dig. § 3.\* 13 Va.-W. Va. Enc. Dig. 219.]

**2. Logs and Logging (§ 3\*)—Sales of Standing Timber—Time for Removal.**—A deed conveying all the standing timber on a tract of

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\*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep'r Indexes.